

ORDINANCE NO. 5298

AN ORDINANCE OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA AMENDING SECTIONS 9-11-1 THROUGH 9-11-7 OF THE MESA CITY CODE PERTAINING TO FLOODPLAIN REGULATIONS AND THE NATIONAL FLOOD INSURANCE PROGRAM, AND ADOPTING BY REFERENCE A FLOOD INSURANCE STUDY, AND FLOOD INSURANCE RATE MAPS.

WHEREAS, the City joined the National Flood Insurance Program (NFIP) as a separate community on March 5, 1980, and under the NFIP, is the entity responsible for floodplain management within the City of Mesa; and

WHEREAS, the continued participation in the NFIP is in the best interest of the citizens of the City of Mesa; and

WHEREAS, the Federal Emergency Management Agency (FEMA) published a countywide Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRMs) for "Maricopa County, Arizona and Incorporated Areas" within an effective date of October 16, 2013, and each community that participates in the NFIP is required to adopt floodplain management regulations consistent with Federal and State criteria; and

WHEREAS, The City has elected NOT to assume floodplain management responsibility as authorized in A.R.S. § 48-3610 and shall be known as District Dependent; and

WHEREAS, the City of Mesa has previously deferred, and desires to continue to defer, the responsibility of floodplain management to the Flood Control District of Maricopa County as provided for in A.R.S. § 48-3609 of the Arizona Revised Statutes; and

WHEREAS, the Flood Control District of Maricopa County has adopted Floodplain Regulations that meet the minimum requirements of the NFIP.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, AS FOLLOWS:

Text written in **BOLD ALL CAPS** indicates new language.
~~Strikethrough~~ fonts indicate deletions.

SECTION 1. That Title 9, Chapter 11, of the Mesa City Code entitled "FLOODPLAIN REGULATIONS" is set forth in its entirety and hereby amended as follows:

FLOODPLAIN REGULATIONS

SECTION:

- 9-11-1: PURPOSE AND STATUTORY AUTHORITY**
- 9-11-2: FLOODPLAIN MANAGER ADMINISTRATOR**
- 9-11-3: ELEVATION CERTIFICATE**
- 9-11-4: FLOODPLAIN MANAGEMENT REGULATIONS**
- 9-11-5: SPECIAL FLOOD HAZARD AREAS**
- 9-11-6: VIOLATIONS AND PENALTIES**
- 9-11-7: WARNING AND DISCLAIMER OF LIABILITY**

9-11-1: PURPOSE AND STATUTORY AUTHORITY:

In accordance with Title 48, Chapter 21, Article 1 of the Arizona Revised Statutes, **THE CITY OF MESA ELECTS NOT TO ASSUME THE RESPONSIBILITY OF FLOODPLAIN MANAGEMENT FROM THE FLOOD CONTROL DISTRICT OF MARICOPA COUNTY AS PROVIDED FOR IN A.R.S. §§ 48-3609, 3610;** ~~Floodplain Management within the City is hereby declared to be vested in, and remain with, the Flood Control District of Maricopa County;~~ and development within areas designated as Flood Hazard Zones located within city limits shall be subject to such rules and regulations as may be established by the State and the Flood Control District of Maricopa County in conformance with the National Flood Insurance Program requirements and the provisions of Title 48, Chapter 21, Article 1 of the Arizona Revised Statutes and conformance to such rules and regulations shall be in addition to any other applicable Mesa code requirements.

9-11-2: FLOODPLAIN MANAGER ADMINISTRATOR:

The City Engineer is appointed and designated as the Floodplain ~~Manager~~ **ADMINISTRATOR** for the City of Mesa and will serve as the community point of contact on National Flood Insurance Program issues for County, State and Federal officials. **THE FLOODPLAIN ADMINISTRATOR WILL BE RESPONSIBLE FOR (1) COORDINATING WITH COUNTY FLOOD CONTROL DISTRICT STAFF REGARDING FLOODPLAIN MANAGEMENT AND (2) VERIFYING THAT THE COMMUNITY'S PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM IS MAINTAINED AND REMAINS IN GOOD STANDING THROUGH ADOPTION AND ENFORCEMENT OF THESE REGULATIONS.**

THE FLOODPLAIN ADMINSTRATOR SHALL ALSO BE, AT A MINIMUM, RESPONSIBLE FOR THE FOLLOWING:

- 1. KEEP AND MAINTAIN CURRENT FLOOD INSURANCE STUDIES AND FLOOD INSURANCE RATE MAP(S) APPLICABLE TO THE COMMUNITY.**
- 2. KEEP AND MAINTAIN COPIES OF THE MOST CURRENT VERSION OF THE "FLOODPLAIN REGULATIONS FOR MARICOPA COUNTY" AT THE OFFICE OF THE MESA CITY CLERK.**
- 3. KEEP AND MAINTAIN ELEVATION CERTIFICATES (OR ACCEPTABLE RECORDS OF LOWEST FLOOD ELEVATIONS) FOR ALL STRUCTURES WITHIN THE SPECIAL FLOOD HAZARD AREAS; AND**
- 4. REPEAL OR MODIFY ALL EXISTING LOCAL ORDINANCES THAT CONFLICT WITH THESE REGULATIONS.**

Duties of the Floodplain ~~Manager~~ **ADMINISTRATOR** shall also include:

- (A) Establishment of procedures to ensure that all requests for permits for floodplain development will be promptly forwarded to the Flood Control District of Maricopa County and that no permits will be issued by any agent of the City until a valid Floodplain Use Permit is obtained by the applicant.
- (B) Delineating and assisting the Federal Insurance Administrator, at his request, in delineating the limits of the areas having special flood hazards on available local maps of sufficient scale to identify the location of building sites.
- (C) Providing such information to the Federal Insurance Administrator as he may request concerning present uses and occupancy of the floodplain areas within city limits.
- (D) Cooperation with federal, state and local agencies and private firms which undertake to study, survey, map and identify floodplain areas, and cooperate with neighboring communities with respect to management of adjoining floodplain areas in order to prevent aggravation of any existing hazards.
- (E) Submission of reports and information, as needed, to the Federal Insurance Administrator on flood plain management.

9-11-3: ELEVATION CERTIFICATE:

No Certificate of Occupancy, Certificate of Completion, or Temporary Certificate of Occupancy shall be issued by the City until the applicant provides to the City an Elevation Certificate approved by the Flood Control District of Maricopa County.

9-11-4: FLOODPLAIN MANAGEMENT REGULATIONS:

That certain public document entitled "Floodplain Management Regulations for Maricopa County (2006 Revision)," **DATED AND AMENDED ON JUNE 25, 2014** as may be amended from time to time, a copy of which shall be kept on file in the Office of the City Clerk, ~~and is referred to herein as the Floodplain Management Regulations,~~ is hereby adopted as the legal basis for implementing floodplain management in the City of Mesa.

9-11-5: SPECIAL FLOOD HAZARD AREAS:

Those certain public documents entitled "Flood Insurance Study for Maricopa County, Arizona, and Incorporated Areas" dated ~~September 30, 2005~~ **OCTOBER 16, 2013 WITH ACCOMPANYING** and "Flood Insurance Rate Maps" dated ~~September 30, 2005~~, **OCTOBER 16, 2013** as each may be amended from time to time, a copy of each shall be kept on file in the Office of the City Clerk, are hereby adopted by reference and are referred to herein as the "Flood Study" and "Rate Maps." The Flood Study and Rate Maps are the basis for establishing the Special Flood Hazard Areas for floodplain management in the City of Mesa. The Special Flood Hazard Areas documented in the Flood Study and Rate Maps are the minimum area of applicability of the Floodplain Management Regulations. These Special Flood Hazard Areas may be changed and supplemented by amendments to the Flood Study and Rate Maps and by studies for other areas as allowed in the Floodplain Management Regulations.

9-11-6: VIOLATIONS AND PENALTIES:

It shall be a violation of this Chapter to develop land contrary to or in violation of any provision of this Chapter, to violate any provision or requirement of this Chapter, or to fail to comply with the Floodplain Management Regulations.

- (A) A person who violates this Chapter is guilty of a Class 2 Misdemeanor.
- (B) In addition to the penalties set forth in the above paragraph, if the Floodplain ~~Manager~~ **ADMINISTRATOR** determines that there has been a violation of this Chapter, the Building Safety Director is authorized to issue a stop work order, or to withhold, suspend or revoke a Certificate of Occupancy, Certificate of Completion, or Temporary Certificate of Occupancy issued under the provision of Title 4 of the Mesa City Code.
- (C) A violation of this Chapter shall also be deemed to be a violation of Title 48, Chapter 21, Article 1 of the Arizona Revised Statutes and is subject to penalties described in A.R.S. §48-3615; and the City shall be entitled to seek injunctive and all other applicable legal and equitable remedies as provided by law for any development that diverts, retards or obstructs the flow of waters in a watercourse or Special Flood Hazard Area without the written authorization of the Flood Control District of Maricopa County.
- (D) Nothing in this Chapter precludes any private or public right of action by any person or entity damaged by another's unauthorized diversion, retardation or obstruction of a watercourse.

9-11-7: WARNING AND DISCLAIMER OF LIABILITY:

The degree of flood protection required by this Chapter and applicable state and county regulations is considered reasonable for regulatory purposes. Flood heights may be increased by man-made or natural causes. This section does not imply that land outside the areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the City or any officer or employee thereof.

SECTION 2: RECITALS. The recitals above are fully incorporated in this Ordinance by reference.

SECTION 3: EFFECTIVE DATE. The effective date of this Ordinance shall be 30 days following adoption by the Mesa City Council.

SECTION 4: PRESERVATION OF RIGHTS AND DUTIES. This Ordinance does not affect the rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this Ordinance.

SECTION 5: SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance or any part of the material adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, this 31st day of August, 2015.